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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,476	09/17/2003	Paul M. Cordua	HITPR:65499	4380

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT PAPER NUMBER

3752

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,476

Applicant(s)

CORDUA, PAUL M.

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-32, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The response filed on July 1, 2005 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Terminal Disclaimer

3. The terminal disclaimer filed on July 1, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent Numbers 6,637,672 and 6,464,151 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

4. Claims 29-32, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Deatherage (659,791).

Regarding claims 29-32, Deatherage discloses an adjustable arc spray nozzle comprising: a top member **G**; a base member **A**; an internal helix member **E, C** having means **c, g** for preventing and a helically configured surface **H**; a plurality of incremental steps **D**; a rotatable external lower collar (element attached to threads **a**).

Regarding claims 34 and 35, Deatherage discloses an adjustable arc spray nozzle comprising: a top member **G**; a base member **A**; an internal helix member **E**; an internal flow adjustment screw **C** having a flange **g**.

Response to Arguments

5. Applicant's arguments filed July 1 have been fully considered but they are not persuasive.

Applicant argues that Deatherage is not an adjustable arc spray nozzle because Deatherage automatically regulates the area of the steam-escape opening according to the pressure of the steam being exhausted. Such condition does not preclude the device of Deatherage from being an adjustable arc spray nozzle. The recitation "adjustable arc spray nozzle" merely requires the spray nozzle to have the ability to adjust the arc. Deatherage automatically adjusts the arc.

In response to applicant's argument that Deatherage's internal helix member is not for controlling the arc of the spray pattern of the nozzle, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Arguendo, even if the claim positively recited the internal helix member controlling the arc of the spray pattern, the helix member **E**, **C** controls the arc of the spray pattern by adjusting the gap between valve **E** and seat **d**.

Applicant argues that Deatherage does not disclose a means for preventing the internal helix member from rotating with respect to the base member. Elements **g** and **c** prevent the internal helix member **E**, **C** from rotating with respect to the top member **G** and the base member **A** when the internal helix member **E** tops out at **g** or bottoms out at **B**.

Applicant argues that Deatherage does not teach a rotatable external lower collar for controlling the flow of the nozzle, the rotatable external lower collar being threadedly connected to a threaded out portion of the base member.

Applicant argues that Deatherage does not teach connecting an external lower collar to a threaded outer portion of the base member. The external lower collar is inherent in the device of Deatherage. It is the element that connects to the threads **a**. Also, Deatherage teaches a threaded outer portion (the portion having threads **a**). The portion of **A** having threads **a** is the outer portion while the portion of **A** having spider **B** is the inner portion. It is noted that claim 31 does not claim external threads.

Functional recitations narrative in form have not been given patentable weight. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC 112, sixth paragraph.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 3752

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A handwritten signature in black ink, appearing to read 'C. Kim', with a long horizontal line extending to the right.

Christopher S. Kim
Primary Examiner
Art Unit 3752

CK